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October 13, 2020

Hon. Mary Kay Vyskocil  
United States District Judge  
Southern District of New York  
500 Pearl Street  
New York, NY 10007

VIA ECF

Re: EMBV Media, S.A. v. VideoApp, Inc. et al., 20 CV 4228

Your Honor,

I represent the Defendants. I write pursuant to the Court's Order dated October 8, 2020, (*see* ECF Doc. 41), and with the consent of all parties, to furnish the joint status letter required by the Civil Case Management Plan and Scheduling Order, (ECF Doc. 36).

**a. Existing Deadlines**

Defendants' motion to dismiss will be filed October 28, 2020; opposition is due November 25, 2020; any reply is due December 9, 2020. (ECF Doc. 40.)

Initial requests for production and interrogatories are to be served by October 14, 2020. (ECF Doc. 36 ¶ 7(a), (b).)

Depositions are to be completed by December 14, 2020. (*Id.* ¶ 7(c).)

The fact discovery cutoff is December 29, 2020. (ECF Doc. 36 ¶ 5.)

Expert discovery shall be completed by January 28, 2020. (*Id.* ¶ 8(a).)

**b. Outstanding Motions**

Defendants will move to dismiss the Complaint pursuant to Rule 12 on the briefing schedule set by the Court. (ECF Doc. 40.)

**c. Discovery**

The parties are to conduct discovery pursuant to the Civil Case Management Plan and Scheduling Order. (ECF Doc. 36.)

**d. Settlement Discussions**

The parties attended a settlement conference before Judge Fox on September 30, 2020. No settlement was reached. Settlement discussions are ongoing.

**e. Trial**

The parties anticipate a 3-day trial. The case is to be tried to a jury.

**f. Summary Judgment or Motion to Exclude**

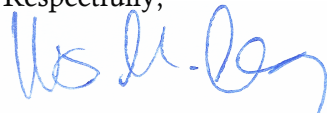
At this early stage of the case — prior to discovery and prior to determination of the Defendants' pre-answer motion — the parties reserve rights to move for summary judgment and/or to exclude expert testimony.

**g. Other**

Defendants respectfully submit that discovery should be stayed pending determination of the motion to dismiss. Fed. R. Civ. P. 16(a), 26(c); *e.g. Trustees of the NYC Dist. Council of Carpenters Pension Fund v. Showtime on the Piers LLC*, No. 19-cv-7755 (VEC), 2019 U.S. Dist. LEXIS 223677, at \*3-4 (S.D.N.Y. Dec. 19, 2019) (“Where ... defendants ... present[] substantial arguments for dismissal ... of the claims asserted in the lawsuit, a stay of discovery is appropriate.”) (citing Fed. R. Civ. P. 26(c)(1)).

Plaintiff believes Defendants' arguments in support of a motion dismiss are meritless and designed to delay litigation. Accordingly, Plaintiff requests that the Court's prior discovery plan remain in place.

Respectfully,



Wesley M. Mullen

cc: All counsel of record (via CM/ECF and email)